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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/022,336	02/11/98	JONES	W 21583-B-USA

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IM62/0525

EXAMINER

WEINER, L

ART. UNIT

PAPER NUMBER

1745

DATE MAILED: 05/25/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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**Office Action Summary**

Application No. 09/022,336	Applicant(s) Jones et al.
Examiner Laura Weiner	Group Art Unit 1745

Responsive to communication(s) filed on Feb 11, 1998.

This action is final.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(b).

**Disposition of Claims**

Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

Claim(s) 1-11 is/are allowed.

Claim(s) 1-11 is/are rejected.

Claim(s) 1-11 is/are objected to.

Claims 1-11 are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  None of the CERTIFIED copies of the priority documents have been

received.

included in Application No. (Series Code/Serial Number) \_\_\_\_\_.

included in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copy not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Filing a Patent Application, PTO-152

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-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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## **DETAILED ACTION**

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-3, 31, drawn to a method for charging a valve-regulated, lead-acid (VRLA) cell, classified in class 320, subclass 30.
  - II. Claims 4-14, drawn to an electric cell, classified in class 429, subclass 57.
  - III. Claims 15-26, drawn to a device for recombining gases in a storage battery, classified in class 429, subclass 8.
  - IV. Claims 27-30, drawn to a vent assembly for sealing a VRLA battery cell, classified in class 429, subclass 72.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as process of use and product. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process for using the product as claimed can be practiced with another materially different product such as a capacitor.

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4. Inventions I and III, IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because they are not disclosed as capable of use together and they have different modes of operation, different functions and different effects.

5. Inventions II and III, IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because they are not disclosed as capable of use together and they have different modes of operation, different functions and different effects.

6. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because they are not disclosed as capable of use together and they have different modes of operation, different functions and different effects.

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7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

8. A telephone call was made to Mr. Gary Hecht on April 20, 1999 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached on (703) 305-3776. The official fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Laura S. Weiner  
Patent Examiner  
Art Unit 1745  
May 24, 1999